

STATE OF SOUTH Carolina
IN THE Supreme Court

Certiorari to Cherokee County
J. Derham Cole, Circuit Court Judge

RECEIVED

JUL 11 2014

S.C. SUPREME COURT

Kenyal L. Rogers, Petitioner,

US.

STATE OF SOUTH Carolina, Respondent,

APPELLATE case NO. 2014-000547

Pro-se Response To
Johnson Petition for writ of Certiorari

Petitioner - Kenyal L. Rogers Pro-se
McCormick Correction INST.
386 Redemption WAY
McCormick, South Carolina 29899

INDEX

Index.	1
Issues presented.	2
Statement.	3
Argument.	4
Conclusion.	5

Issues Presented

Whether plea counsel was ineffective in failing to discuss or explain the nature and crucial elements of the offense of murder or voluntary manslaughter prior to the plea?

Whether the plea was intelligently, knowingly, and voluntarily entered?

Whether Trial Court error?

Whether Lack of Jurisdiction?

STATEMENT

On January 27th, 2009, petitioner appeared before the Honorable Roger L. Couch in Cherokee County and pled guilty to voluntary manslaughter. A thirty (30) year sentence was imposed. Thomas E. Shealy, Esquire, was plea counsel. Michael Morin, Esquire, was the assistant solicitor. (App. p. 1 - p. 27).

Petitioner filed an application for post-conviction relief on December 16th, 2010. (App. p. 28 - p. 37). Respondent filed a return dated November 1st, 2011. (App. p. 38 - p. 42). An evidentiary hearing was held on October 4th, 2013, before the Honorable J. Derham Cole. Petitioner was present and proceeded pro se. Respondent was represented by Suzanne H. White, Assistant Attorney General. Petitioner testified in his own behalf and called Angela Rogers and plea counsel to testify. (App. p. 43 - p. 119). On February 19th, 2014, Judge Cole issued an order denying and dismissing petitioner's application for post-conviction relief. (App. p. 120 - p. 130) This petition follows.

Argument

Whether plea counsel was ineffective in failing to discuss or explain the nature and crucial elements of the offense of Murder or Voluntary Manslaughter prior to the plea? Whether the plea was intelligently, knowingly, and voluntarily entered? Did Trial Court error? Whether lack of Jurisdiction?

Petitioner who was not informed of critical elements of the offense to which he pled guilty to, or indicted for, Petitioner would not have pled guilty had plea counsel accurately informed him of the situation, entered his plea involuntarily. The intent to commit the crime must have existed. Butler vs. State, 286 S. C. 441, 334 S. E. 2d 813 (1995). Jackson vs. State, 329 S. C. 345, 495 S. E. 2d 768 (1998). But going along with rule 11 (c.) (1.) of the Federal rules of Criminal procedure it says and this was amended December 1st, 1975: "Advice to Defendant." Before accepting a plea of guilty or nolo contendere the court must address the defendant personally in open court and inform him of and determine that he understands the following: The nature of the charge to which he is pleading and the critical elements of the charge to which he is pleading. "There is little evidence as to what defense counsel communicated to Rollison." Rollison vs. State, 552 S. E. 2d 290 (S.C. 2001). IN violation of Article 1, Section 3 of S. C. Constitution, Also 14th amendment of U. S. Constitution, along as with 5th and 6th.

Trial Court Failed to comply with Rule 11 Section (c.) (1.) and (D.) of the Federal Rules of Criminal procedures. Boykin vs. Alabama, 395 U. S. 238, 89 S. CT. 1709 (1969). Harris vs. Leete, 282 S. C. 131, 318 S. E. 2d 360 (1984). IN violation of Article 1, Section 3 of S. C. Constitution, Also 5th, 6th, and 14th Amendment of U. S. Constitution.

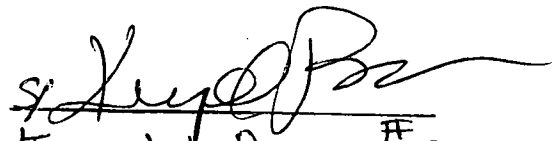
Applicant requested a preliminary Hearing on January 30th, 2008, following his arrest and never received one, But was indicted on March 6th, 2008. Due Process Violation And Equal protection of the Law, S. C. Constitution Article 1, Section 11 and 14. And U. S. Constitution 5th, 6th, and 14th Amendments. S. C. Rules of Crim. procedure, Rule 2 (A.) and Rule 2 (B.). Time For hearing. State vs. Funderburt, 191 S. E. 2d 520 (1972). State vs. Dingle The denial of a requested hearing constitutes a "serious Breach of law by the Court". State vs. Ramsey, 398 S. CT. 275 S. C. (2001), State vs. Wheeler, 193 S. E. 2d 518 (1970), Coleman vs. Alabama, 399 U. S. 1, 90, S. CT. (1999), Adams vs. Illinois, 405 U. S. 278, 92 S. CT. 916, 31 Lawyers Edition 2nd 202.

CONCLUSION

Petitioner's writ should be granted.

Respectfully submitted

Date: July 8th 2014


Kenyal L. Rogers # 332892
Pro-se

STATE OF SOUTH Carolina
IN THE Supreme Court

RECEIVED

JUL 11 2014

S.C. SUPREME COURT

Certiorari to Cherokee County
J. Derham Cole, Circuit Court Judge

Kenyal L. Rogers, Petitioner,

vs.

STATE OF SOUTH Carolina, Respondent,

Certificate of Service

I certify that a true copy of a Pro-se Response to the Johnson Petition for writ of Certiorari and a certificate of service in this case have been served upon Daniel E. Shearouse, Clerk of Court, Post Office Box 11330, Columbia, S.C. 29211. This 08 day of ~~July~~ 2014.

Sworn To Before me This 08 day
of ~~July~~ 2014.

J. Frankly
Notary Public For South Carolina

My Commission Exp: 12-16-2019

Kenyal L. Rogers
Kenyal L. Rogers #332892
Pro-se